

ERDAHL, Mr. GILMAN, and Mrs. HOLT as managers of the conference on the part of the House.

### HOUSE BILLS REFERRED

The following bills were read twice by unanimous consent, and referred as indicated:

H.R. 3663. An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers; to the Committee on Commerce, Science, and Transportation.

H.R. 4879. An act to clarify the treatment of international banking facility deposits for purposes of deposit insurance assessments and to remove certain limitations on the mortgage loan purchase authority of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association; to the Committee on Banking, Housing, and Urban Affairs.

### HOUSE BILL HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent:

H.R. 4845. An act to designate the building known as the Lincoln Federal Building and Courthouse in Lincoln Nebr., as the "Robert V. Denny Federal Building and Courthouse."

### ENROLLED BILL SIGNED

The PRESIDENT pro tempore (Mr. THURMOND) announced that on today, November 20, he signed the following enrolled bill, which had previously been signed by the Speaker of the House of Representatives:

H.R. 5434. An Act to authorize appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the United States Government, and for other purposes.

### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

H.R. 3484. A bill to provide for the minting of half dollars with a design emblematic of the two hundred and fiftieth anniversary of the birth of George Washington (Rept. No. 97-277).

Mr. GARN. Mr. President, while reporting H.R. 3484, as unanimously agreed to by the Banking, Housing, and Urban Affairs Committee, I would just like to take a minute and note the contribution made by Senator McCLEURE on behalf of this legislation. Senator McCLEURE introduced S. 1228, the companion bill in the Senate which contains virtually identical provisions to H.R. 3484, to encourage efforts to mint precious metal legal tender coins whose sales would benefit the taxpayer. I appreciate and want to commend the Senator from Idaho for his efforts on this legislation.

### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Rickey Dale James, of Missouri, to be a member of the Mississippi River Commission for a term of 9 years;

Maj. Gen. William Edgar Read, 240-28-5658, U.S. Army, to be a member and president of the Mississippi River Commission; and Maj. Gen. Hugh Granville Robinson, 577-44-1975, U.S. Army, and Brig. Gen. Richard Samuel Kem, 310-34-8520, U.S. Army, to be members of the Mississippi River Commission, under the provisions of section 2 of an act of Congress, approved 28 June 1879 (21 Stat. 37) (33 U.S.C. 642).

Brig. Gen. Homer Johnstone, Jr., 557-40-6246, Col. Paul Basilwich, Jr., 169-26-6517, and Col. Paul Frederick Bavanaugh, 003-26-7792, all of the Corps of Engineers, to be members of the California Debris Commission, under the provisions of section 1 of an act of Congress approved 1 March 1893 (27 Stat. 507) (33 U.S.C. 661).

By Mr. PERCY, from the Committee on Foreign Relations:

Treaty Doc. No. 97-7. Treaty of Extradition Between the United States and the Kingdom of the Netherlands, signed at The Hague on June 24, 1980 (Ex. Rept. No. 97-33);

Treaty Doc. No. 97-8. Treaty of Extradition Between the United States and the Republic of Colombia, signed at Washington on September 14, 1979 (Ex. Rept. 97-34);

Treaty Doc. No. 97-11. Treaty on Mutual Legal Assistance Between the United States and the Republic of Colombia, signed at Washington on August 20, 1980 (Ex. Rept. 97-35); and

Treaty Doc. No. 97-16. Treaty on Mutual Legal Assistance Between the United States and the Kingdom of the Netherlands, together with a related exchange of notes, signed at The Hague on June 12, 1981 (Ex. Rept. 97-36).

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. KASSEBAUM (for herself, Mr. DOLE, Mr. DURENBERGER, Mr. GRASSLEY, Mr. BUMPERS, Mr. EXON and Mr. PACKWOOD):

S. 1879. A bill to amend the Milwaukee Railroad Reconstructing Act and the Rock Island Transition and Employee Assistance Act to facilitate the purchase of lines of bankrupt carriers to provide for continued rail and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND (for himself, Mr. SPECTER and Mr. LAXALT):

S. 1880. A bill to amend the manufacturing clause of the copyright law; to the Committee on the Judiciary.

By Mr. SASSER (for himself, Mr. ANDERSON, Mr. BRADLEY, Mr. CHAFFE, Mr. BURDICK, Mr. CHILES, Mr. DECONCINI, Mr. DOMENICI, Mr. DIXON, Mr. EAGLETON, Mr. HART, Mr. JACKSON, Mr. KASTEN, Mr. LEVIN, Mr. NUNN, Mr. PERCY, Mr. FRYOR, Mr. STAFFORD, Mr. STENNIS, Mr. DURENBERGER, Mr. PRESSLER, Mr. SCHMITT and Mr. RIEGLE):

S. 1881. A bill to provide for the issuance of a commemorative stamp to honor the dedication of the Vietnam Veterans Memo-

rial; to the Committee on Governmental Affairs.

By Mr. BAKER (for Mr. WARNER (for himself, Mr. HARRY F. BYRD, JR., Mr. RANDOLPH, Mr. BONGAS, Mr. GOLDWATER, Mr. HATCH, Mr. CRANSTON, Mr. CANNON and Mr. CHAFFE)):

S.J. Res. 130. A joint resolution designating February 22, 1982, the 250th anniversary of the birth of George Washington, a "Day of National Celebration," to the Committee on the Judiciary.

### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. KASSEBAUM (for herself, Mr. DOLE, Mr. DURENBERGER, Mr. GRASSLEY, Mr. BUMPERS, Mr. EXON, and Mr. PACKWOOD):

S. 1879. A bill to amend the Milwaukee Railroad Restructuring Act and the Rock Island Transition and Employee Assistance Act to facilitate the purchase of lines of bankrupt carriers to provide for continued rail services and for other purposes; to the Committee on Commerce, Science, and Transportation.

#### MILWAUKEE RAILROAD AND ROCK ISLAND RAILROAD AMENDMENTS ACT

Mrs. KASSEBAUM. Mr. President, service over the Rock Island rail system continues to be an economic lifeline to the Midwest, providing an essential, energy-efficient means of transporting huge volumes of agricultural and industrial products.

Mr. President, almost 2 years ago, the Rock Island Railroad system was confronting the imminent expiration of an Interstate Commerce Commission directed service order covering thousands of miles of essential rail lines. Over 5,000 railroad employees were faced with the loss of their jobs. Recognizing the crucial need for continued rail operations and the threatening nature of these conditions, Congress passed the Rock Island Transition Act. This legislation was intended to expedite the transfer of essential rail lines to interested carriers and shippers.

Since enactment of the Rock Island Transition Act, our hopes have been dashed by a series of court challenges. Although the Supreme Court will soon deal with the labor protection question which is currently pending before it, numerous obstacles impede the process of selling portions of the line to bona fide purchasers. Efforts to negotiate with the estate have been constantly thwarted to the detriment of shippers, jobless rail employees, and Rock Island creditors.

Without rail service, grain, fertilizer and other products will move slowly and more expensively. For example, the per bushel cash price offered to farmers if grain must be trucked is 5 cents to 17 cents below the rail rate. An indicator of the importance of the Rock Island comes from the Kansas City board of trade which has estimated the dollar value of the grain that passes through elevators served by the Rock at over \$950 million. In Kansas, nearly 40 percent of the total commercial grain storage capacity is served by the Rock.

In order to provide a means for overcoming the roadblocks in the current process, I am, today, introducing legislation which would vest new authority in the ICC to insure that the public interest is served. As matters now stand, if a prospective purchaser offers a price there is no mechanism for determining a reasonable price and thereby facilitating the sale of the line.

Certainly, the constitutional rights of the creditors must be accounted for. However, their rights can be met without negatively infringing on the public interest. Ideally, good faith negotiations between the trustee and prospective purchasers would result in continued service. Recent events suggest that this may never occur.

Under my bill, if the Commission finds that a financially responsible person has made a bona fide offer for a reasonable price which has been rejected by the trustee, and if subsequent negotiations fail to reach agreement within 60 days on the amount of the sale, the Commission may determine a reasonable purchase price.

This shall not be less than net liquidation value of the line and this decision shall be binding on both parties unless the purchaser withdraws his offer within 10 days of the ICC decision. The bill directs the courts to approve the sale as long as the purchase price is not less than required as a constitutional minimum. In order to insure a smooth transition of service in the interim, the bill clarifies the ICC's authority to issue service orders until a plan of reorganization or liquidation is approved by the ICC and the court.

Mr. President, the public interest demands a binding, expedited transfer process—one where the tender of bona fide offers for purchase will result in a sale and one that will serve the essential transportation needs of the public while remaining cognizant of constitutional considerations. This legislation addresses these concerns by promoting the continuation of service which is so vital to shippers and to the communities that depend on an efficient and profitable farm economy.

I am confident this legislation will accommodate the competing concerns of those parties involved in negotiations for purchase of lines of bankrupt carriers and that it is the best way to insure that public interest is served.

I am pleased to be joined in this effort by Senator Dole, who has worked very hard to protect economic interests throughout the Midwest, and by Senators Durenberger, Bumpers, Packwood, and Grassley.

I ask unanimous consent that the bill and a section-by-section analysis be included in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

#### S. 1879

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Milwaukee Railroad and Rock Island Railroad Amendments Act."

#### PURPOSE OF THE ACT

SEC. 2. This Act is part of the continuing effort by Congress to assure service over the lines of bankrupt carriers in instances where rail carriers are willing to provide service over such lines and financially responsible persons are willing to purchase the lines for continued rail operations.

#### CONGRESSIONAL FINDINGS

SEC. 3. The Congress hereby finds that it is in the public interest (1) to clarify the Commission's existing authority to consider purchase applications and to issue orders involving temporary authority; (2) to establish procedures to facilitate and expedite the sale of lines of bankrupt carriers to financially responsible persons in instances where the line has been abandoned by the bankrupt carrier or service is not being provided by such carrier, and the prospective purchaser seeks to provide rail service over such line or lines; and (3) that procedures set forth herein will provide a practicable means for preserving rail service, thus benefiting shippers, employees, and the economies of the States in which such bankrupt railroad or railroads operate, while at the same time providing safeguards to protect the interest of the estate of the bankrupt by requiring payment of a reasonable purchase price.

#### MILWAUKEE RAILROAD RESTRUCTURING ACT AMENDMENTS

SEC. 4. The Milwaukee Railroad Restructuring Act (49 U.S.C. 901) is amended as follows:

(1) Insert at the end of Section 3, the following new subparagraph:

"(7) For the purpose of section 17, a 'financially responsible person' means a person who is capable of paying the purchase price of the line proposed to be acquired and is able to cover expenses associated with providing service over the line for a period of not less than two years.

(2) Insert the following new subsection as Section 17(b)(3) and renumber section 17(b)(3) as section 17(b)(4):

(A) Any financially responsible person seeking to purchase (1) a line or lines of a bankrupt railroad no longer operating as a common carrier or (2) a line or lines of a bankrupt carrier over which no service is being provided by such carrier, may submit an application for purchase of such line or lines with the Commission if it intends to provide rail operations over the line and has made a bona fide offer to purchase at a price asserted to be reasonable which has been rejected by the trustee. A copy of any application filed pursuant to this subparagraph shall be simultaneously filed with the court.

(B) If the Commission finds, within 30 days after filing of an application under subparagraph (A) that a financially responsible person has made a bona fide offer to purchase a line or lines of a bankrupt railroad, as described in subparagraph (A), for a reasonable price, and that such offer has been rejected by the trustee, the parties shall have 60 days to agree on the amount of compensation for sale or transfer of the considered line or lines. If agreement is reached, a request for approval of the sale shall be filed with the Commission and the court.

(C) If the parties are unable to agree on the amount of compensation within the period specified in subparagraph (B), either party may, after at least 60 days but within 90 days, request the Commission to determine a reasonable purchase price for the considered line or lines. For the purposes of this subparagraph, a reasonable price shall be not less than net liquidation value of such line or lines as determined by the Commission. The Commission shall render its decision within 60 days. The decision of the Commission shall be binding upon both parties, subject to court review as provided in subparagraph (E), except that the person who

has offered to purchase the line may withdraw the offer within 10 days of the Commission's decision.

(D) The Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line subject to a sale under this section.

(E) The Commission shall, within 15 days of decision, transmit to the court any order or decision under this subsection, unless the offer is withdrawn as provided in subsection (C). Notwithstanding any other provision of law, the court shall approve the sale so long as the purchase price is not less than required as a constitutional minimum for the line or lines.

(F) No purchaser of a line sold under this subsection may transfer or discontinue service on such line prior to the end of the second after consummation of the purchase.

(G) The Commission shall, within 45 days of the effective date of this subsection, prescribe any regulations and procedures which may be necessary to carry out the provisions of the subsection.

#### ROCK ISLAND TRANSITION AND EMPLOYEE ASSISTANCE ACT AMENDMENTS

SEC. 5. The Rock Island Transition and Employee Assistance Act (45 USC 1001) is amended as follows:

Insert at the end of Section 122(a) the following new sentence:

"The Commission's authority to issue orders under this section shall continue until a plan of reorganization or liquidation is approved by the Commission and the court."

#### SECTION-BY-SECTION ANALYSIS—S. 1879 SHORT TITLE

The short title of the Act is the "Milwaukee Railroad and Rock Island Railroad Amendments Act."

#### SECTION 2. PURPOSE OF THE ACT

The Act is designed to address the problems involved in arranging for continued rail service over the lines of bankrupt carriers. The purpose of the Act is to assure such continued service in instances where financially responsible persons are willing to purchase the lines for continued rail operations.

#### SECTION 3. CONGRESSIONAL FINDINGS

This section highlights the actions needed to assure that procedures exist which will facilitate the continuance of rail service over the lines of bankrupt carriers. In order to accomplish this goal, it is necessary to clarify the Commission's existing authority to consider applications to purchase portions of the rail system of a bankrupt carrier and to issue orders involving temporary authority over such lines. When a prospective purchaser is interested in providing service over lines which have been abandoned or service is not being provided by the bankrupt carrier, it is necessary to establish procedures to facilitate and expedite the sale of such lines. The procedures established by this Act will provide a practicable means for preserving rail service, thus benefitting shippers, employees, and the economies of the States in which such bankrupt railroad or railroads operate. At the same time providing safeguards to protect the interest of the estate of the bankrupt by requiring payment of a reasonable purchase price.

#### SECTION 4. THE MILWAUKEE RAILROAD RESTRUCTURING ACT AMENDMENTS

This section amends section 17 of the Milwaukee Railroad Restructuring Act in several respects. The purpose of the section is to clarify the Commission's existing authority to consider purchase applications.

Subparagraph (1) defines "financially responsible person" for the purpose of the section as a person who is capable of paying the purchase price of the line and one who

able to cover expenses associated with providing service over the line for a period of less than two years.

Subparagraph (2) adds a new subsection (b) (3) and rennumbers the existing section (b) (3) as section 17(b) (4). The new subsection (b) (3) establishes procedures to facilitate and expedite the sale of lines of bankrupt carriers to financially responsible persons in instances where the line has been abandoned by the bankrupt carrier or service is not being provided by such carrier, and the prospective purchaser seeks to provide rail service over such line or lines.

A financially responsible person seeking to purchase a line or lines under this provision may submit an application to the Commission. It has made a bona fide offer to purchase at a price asserted to be reasonable which has been rejected by the trustee. A copy of any such application must be simultaneously filed with the court.

The Commission has 30 days to make a finding that a bona fide offer has been made to purchase the line at a reasonable price, and that such offer has been rejected by the trustee. If the Commission makes such a finding, the parties have 60 days to agree on the amount of compensation for sale or transfer of the line.

Should the parties be unable to reach agreement on the purchase price within the 60-day period specified in this subsection, either party may request the Commission to determine a reasonable purchase price for the line, which shall not be less than net liquidation value of the property. The Commission is required to render a decision within 60 days; the decision shall be binding on both parties, subject to court review as provided in the subsection, unless the offeror withdraws its offer within 10 days of the decision.

Within 15 days of decision, the Commission must transmit its decision to the court, which shall approve the sale if the purchase price established by the Commission is not less than required as a constitutional minimum price.

The subsection further provides that any purchaser of a line under section 17(b) (3) may not transfer or discontinue service on the line prior to the end of the second year after consummation of the sale.

Finally, the Commission is authorized to prescribe any regulations and procedures which may be necessary. A 45-day period is specified for adoption of such implementing regulations and procedures.

#### SECTION 5. ROCK ISLAND TRANSITION AND EMPLOYEE ASSISTANCE ACT AMENDMENTS

Section 5 amends section 122(a) of the Rock Island Transition and Employee Assistance Act to clarify the authority of the Commission to authorize temporary operations under this section until a plan of reorganization or liquidation is filed and approved by the Commission and the court.

Mr. PERCY subsequently said: Madam President, while the distinguished Senator from Kansas was speaking on the floor of the Senate and I was in the chair presiding over the Senate, I could not immediately respond.

I would just like to make a matter of record the conversations that the Senator from Kansas and the Senator from Illinois have had. They were on the floor earlier this evening.

It is my understanding that the Senator from Kansas will not be offering an amendment involving the Rock Island on the reconciliation bill, but the Senator from Kansas will be offering a bill at an appropriate time involving the Rock Island, which will then give us an opportunity for hearings and discussion of that particular issue.

We may see this issue from a different vantage point, and we probably do, but I would want to pledge to the distinguished Senator my cooperation in working with her to resolve whatever differences we can. But it is my understanding that this will not be a part of the reconciliation process.

I thank my distinguished colleague for the insurance that she gave to me on this earlier this evening.

Madam President, I yield the floor.

Mr. DOLE. Mr. President, I am delighted to join my distinguished colleague from Kansas, Senator KASSEBAUM, in introducing this amendment to the Milwaukee Railroad Restructuring Act and the Rock Island Transition and Employee Assistance Act. As Senator KASSEBAUM has indicated, timely passage of this bill will help alleviate the numerous problems stemming from the bankruptcy of the Rock Island Railroad which have adversely affected the economy of all Midwestern States. It is the fervent hope of both Senators from Kansas that purchase of lines from bankrupt carriers can be swiftly effected so that rail service throughout the Midwest can be continued and, in some cases, restored.

The Rock Island Railroad has been in bankruptcy proceedings since 1975 in a Chicago Federal district court. The presiding judge has ordered that the bankruptcy estate be liquidated. There are some who would not be disturbed to see the eventual abandonment of most or all of the old Rock Island line. The trustee in bankruptcy himself was quoted in an October edition of Farmland News as saying that he would sell part of the line to other railroads and dismantle the rest.

Mr. President, the dismantling of these lines, some of which have been in existence for over a century, would be a clear repudiation of the public interest. Continued rail service over the old Rock Island lines in the "breadbasket of the world" is a must, not only to the shippers and communities along those routes but to the Nation at large, which depends so heavily upon the goods and commodities produced in this region. At present, many of the communities desperately in need of rail service have none; in other areas, rail service has been provided to date, but embargoes and the eventual shutdown of operations appear likely, unless legislative action is taken now.

Under the present statutory scheme, the purchase of segments of line from a bankruptcy estate does not occur unless an agreement can be reached between the purchaser and the trustee. Experience has taught us that the interests of prospective purchasers and of the trustee have historically conflicted, and have acted to prevent meaningful agreements from being reached. As each side has charged the other with a lack of good faith during negotiations, the resistance to compromise has deepened and the public interest has suffered greatly. Interim service along the routes in question depends on periodic assessments by the Interstate Commerce Commission that there is a reasonable prospect that an ultimate purchase contract can be successfully negotiated. The Senator from Kansas applauds the past willingness of the ICC to grant such temporary

service orders. The fact that the validity of such orders has recently been negated by one Federal court, however, underscores the need for a legislative remedy.

Mr. President, the Senators from Kansas are confident that the legislation we introduce today will make it possible for long-term rail service to be provided. This legislation provides that a much necessary third party, the Interstate Commerce Commission, can assume the authority to review purchase applications when good faith purchase offers have been made and, in turn, rejected by the trustee. In short, the establishment of a procedure for review will break the impasse that inevitably develops in the bargaining process. The Commission is empowered to determine a reasonable purchase price for the lines, with provisions for judicial review. There are a number of provisions which protect the bankruptcy estate, most notably a due process guarantee that the purchase price not be less than the constitutional minimum.

The Senator from Kansas urges this body to act swiftly on this matter to establish an effective procedure for arriving at final and equitable purchase prices for bankrupt rail lines.

By Mr. THURMOND (for himself, Mr. SPECTER, and Mr. LAXALT):  
S. 1880. A bill to amend the manufacturing clause of the copyright law; to the Committee on the Judiciary.

#### MANUFACTURING COPYRIGHT

Mr. THURMOND. Mr. President, today, I am introducing legislation along with a number of cosponsors that would retain language in the copyright law of 1976 that requires nondramatic literary works copyrighted in the United States to be printed in the United States.

In 1976, the Congress approved a series of amendments to the U.S. copyright law. One of these amendments was the phaseout of the manufacturing clause which may result in the demise of the Nation's seventh largest manufacturing industry, the printing industry. The manufacturing clause, section 601 (a) of title 17 of the United States Code, provides that in exchange for full and unqualified U.S. copyright protection on "preponderantly non-dramatic literary works" by a U.S. author, the work must be manufactured—printed—in the United States or Canada. This clause has been part of the U.S. copyright law for 91 years. Its expiration may have a disastrous and unintended effect on the American printing industry.

Mr. President, although Congress approved the phaseout of the manufacturing clause in 1976, it did so only after House and Senate conferees agreed to delay the expiration until July 1, 1982, so studies could be made on its economic impact on the printing industry and the U.S. economy. This action was taken at the insistence of Senators Scott and McClellan after the Senate had voted 87 to 0 to retain the manufacturing clause.

In response to the request by the Congress, the U.S. Copyright Office conducted a study which was completed in July 1981. In addition, the Department of Labor conducted a study on the impact of the U.S. labor force as a result of the expiration of the manufacturing